

Remarks

In the Office Action mailed February 20, 2004 (the “Office Action”), the U.S. Patent and Trademark Office (the “Patent Office”) acknowledged that claims 1-10 were pending, withdrew claims 1-9 from further consideration, and rejected claim 10. In the Office Action, the Patent Office further indicated that the drawings filed on November 8, 2001, are accepted by the Examiner. Also, the Patent Office acknowledged the claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Pending claims 1-9 were withdrawn as being drawn to non-elected inventions. Pending claim 10 was rejected under 35 U.S.C. § 112, second paragraph. Pending claim 10 was also rejected under 35 U.S.C. § 102 (a & e).

Rejection of Claim 10 under 35 U.S.C. § 112, Second Paragraph:

In the Office Action, the Patent Office rejected claim 10 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention.

Without acceding to the Patent Office’s argument that the limitation of “said mixture” in line 5 lacks sufficient antecedent basis, the claims have been amended to more clearly set forth what mixture is used in each method step.

In view of the foregoing, the applicant respectfully requests that the rejection of claim 10 under 35 U.S.C. § 112, second paragraph, be reconsidered and withdrawn.

Rejection of Claim 10 under 35 U.S.C. § 102 (a/e):

In the Office Action, the Patent Office rejected claim 10 under 35 U.S.C. § 102 (a/e), as allegedly being anticipated by U.S. Patent No. 5,585,362 (Wilson et al.).

Contrary to the Patent Office’s assertions, the Wilson patent does not teach the present invention. Nowhere in Wilson is it taught that a shuttle vector and a helper plasmid are mixed at an elevated temperature prior to the mixture being added to 293 cells. Thus, having failed to

teach each and every element of the present invention, Wilson cannot anticipate the present invention under 35 U.S.C. § 102 (a/e).

In view of the foregoing, the applicant respectfully requests that the rejection of claim 10 under 35 U.S.C. § 102(a/e) be reconsidered and withdrawn.

Conclusion

The applicant respectfully requests reconsideration of the pending claims in view of the amendments and remarks above. The Patent Office is invited to contact the undersigned at (312) 913-2117 if it is believed such contact would expedite prosecution of the subject application. The Commissioner is generally authorized to credit any fees overpaid to or debit any fees underpaid from Deposit Account No. 13-2490. The applicant respectfully contends that the pending claims are allowable and requests the issuance of a Notice of Allowability as well as a Notice of Allowance and Issue Fee Due.

Respectfully submitted,

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